

## REMARKS

In the final Office Action mailed January 23, 2009, claims 1-8 and 14-21 were rejected under §112, first paragraph; claims 22-29 were rejected under §101 as being directed to non-statutory subject matter; and claims 1-29 were rejected under §103 as being unpatentable over Milillo in view of Asselin and Taylor. In response, after-final amendments and response were filed. An Advisory Action was subsequently issued in which the amendments were entered, the §101 and §112 rejections were withdrawn and the §103 rejection was maintained.

In this Amendment, independent claims 1, 14 and 22 were amended to incorporate dependent claims 7, 20 and 28, respectively; claims 8, 21 and 29 were cancelled along with claims 8, 21 and 29 and claims 9-13; claims 5, 18 and 26 were amended to update their dependencies; other claims were previously cancelled. These amendments recite a sequence which is not taught or disclosed in the cited references.

In the sequence, an attempt is made to prepare one source volume for a FlashCopy operation and then a decision is made as to whether the attempt was successful. If it was not successful, then the FlashCopy operation is reverted to leave the prior consistency group maintained in the FlashCopy target volumes. If the attempt was successful, an attempt is made to prepare another source volume and a decision is made as to whether the attempt for that source volume was successful. The attempt/decision steps are repeated sequentially for subsequent source volumes to be FlashCopied unless and until an attempt is unsuccessful in which case the FlashCopy operation is reverted. If all attempts are successful, then the FlashCopy operation is committed and the prior consistency group retained in the FlashCopy target volumes is replaced by the new consistency group.

Consequently, the independent claims are not rendered obvious by the cited references. The Applicant respectfully asserts that the dependent claims are further allowable based on the allowability of the respective independent claims.

For the foregoing reasons, the claims are believed to be allowable, the Application is believed to be in condition for allowance and a favorable Office Action is

requested. The Examiner is encouraged to contact the undersigned by telephone if a conversation would expedite prosecution of this case.

This constitutes a request for a one-month extension of time. The required fee is being paid herewith; the undersigned hereby authorizes the charge of any deficiency of fees submitted herewith, or the credit of any overpayment, to deposit account number 09-0449.

Respectfully Submitted,

/Dan Shifrin/  
Dan Shifrin, #34,473  
Law Office of Dan Shifrin  
6208 Devinney Cir.  
Arvada, Colorado 80004  
303-403-4510  
303-785-8795 (Fax)

cc: IBM- Tucson